

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

POLY-AMERICA, L.P.,	§	
	§	
Plaintiff and Counter-Defendant,	§	
	§	
v.	§	CIVIL ACTION NO. 1:21-cv-08195-AJN
	§	
API INDUSTRIES, INC.,	§	
	§	
Defendant and Counter-Plaintiff.	§	

**PLAINTIFF AND COUNTER-DEFENDANT'S NOTICE OF MOTION TO DISMISS**

Plaintiff and Counter-Defendant Poly-America, L.P. ("Poly-America") hereby provides Notice that, pursuant to its contemporaneously filed Memorandum of Law, it moves the Court pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) for an order:

- A. Dismissing Defendant API Industries, Inc.'s ("API") Counterclaim [Dkt #32] for lack of subject matter jurisdiction; or
- B. In the alternative, dismissing API's Counterclaim for failure to state a claim upon which relief can be granted.

Dated: March 28, 2022

Respectfully submitted,

**CHAMPION LLP**

/s/ Austin Champion

Austin Champion

Texas Bar No. 24065030

Admitted *Pro Hac Vice*

Austin.Champion@championllp.com

----

2200 Ross Avenue

Suite 4500W

Dallas, Texas 75201

214-225-8880 | Main

214-225-8881 | Fax

**COUNSEL FOR POLY-AMERICA, L.P.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that all counsel of record who have consented to electronic service were served with a copy of this document through this Court's CM/ECF system and pursuant to the local rules on March 28, 2022.

/s/ Austin Champion

Austin Champion